



Senate Bill 980

DNA Evidence Testing Fact Sheet

Issue:

Despite the widespread acceptance of DNA testing as a powerful and reliable form of forensic evidence that can conclusively reveal guilt or innocence, many prisoners face insurmountable hurdles during the legal process and do not have the legal means to secure testing on evidence in their cases.

Senate Bill 980's reforms clarify and streamline the judicial process associated with post-conviction DNA testing requests, thus reducing delay and saving the costs of unnecessary litigation. These reforms would help reduce the likelihood of people spending time in prison for crimes they did not commit and further the cause of justice in California.

Background:

One of the greatest injustices a government can commit is the wrongful conviction and imprisonment of an innocent person while the true perpetrator remains free.

In 2000, California became one of the first states to create a process by which an incarcerated person who had been convicted of a felony could ask for DNA testing to prove innocence. Fourteen years later, however, California's post-conviction DNA testing process is in need of some commonsense and crucial reforms.

These reforms would provide defendants **greater information as to the existence of forensic evidence** for DNA testing. They give courts the ability to order DNA profiles to be run through the national DNA database, making it possible to **find the real perpetrators of crimes**. They establish **more consistent and thorough protocols for the preservation and destruction of evidence** after conviction, enabling more innocent people to get testing.

Existing Law and This Bill:

Access to Information: Existing law requires an individual requesting testing to show that the evidence to be tested is available and in a testable condition. Yet the law does not provide a right of access to information about the evidence to determine if it is testable, or even determine if the evidence was preserved or destroyed.

This bill would require law enforcement agencies to provide information and/or documentation about the existence of biological evidence – whether it has been destroyed or preserved. In addition, the bill would allow courts to order unknown DNA profiles to be run through the FBI's Combined DNA Index System (CODIS) database to identify the true perpetrator, as long as such a search does not violate state or national rules.

Standard: Existing law provides that an individual requesting testing must "raise a reasonable probability that, in light of all the evidence, the convicted person's verdict or sentence would have been more favorable if the results of DNA testing had been available" at trial. This standard has been difficult for courts to interpret, and has resulted in denials when testing should have been granted.

This bill clarifies that the standard to get DNA testing (1) does not require a showing that the DNA testing will prove innocence, and (2) in determining whether to grant testing, the court should not decide that the evidence, if exculpatory, would actually require that the person be released from prison.

Retention: Existing law provides that law enforcement agencies retain evidence that contains biological material while the person is incarcerated. In order for the agency to destroy evidence before that time, notice must be sent to the inmate and counsel, who must within 90 days request that the evidence be preserved and file a motion for DNA



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testing within 180 days. In practice, these timeframes are too short.

This bill would extend the period of notification from 90 days to 180 days, and for the filing of a request for testing from six months to one year.

Lab Certification: Existing law provides for testing to be completed by laboratories accredited by the American Society of Crime Laboratory Directors Laboratory Accreditation Board (ASCLD/LAB), to which many labs no longer subscribe.

This bill would allow for testing to be completed by laboratories that meet the FBI Director's Quality Assurance Standards. Laboratories determined to satisfy this requirement include those accredited by a number of entities.

Support:

California Innocence Project, cosponsor
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American Civil Liberties Union of California
American Association for Laboratory Accreditation
California Attorneys for Criminal Justice
California District Attorneys Association
California Catholic Conference
California Public Defenders Association
California Province of the Society of Jesus
Equal Justice Society
Friends Committee on Legislation of California
Judge LaDoris H. Cordell (Ret.)
Legal Services for Prisoners with Children
San Diego County District Attorney
Santa Clara County District Attorney

Opposition:

California Police Chiefs Association
Citizens for Law and Order, Inc.
Crime Victims Action Alliance

Department of Finance
District Attorney of Sacramento County
Los Angeles County Sheriff's Department
National Organization of Parents of Murdered Children
Orange County District Attorney's Office

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